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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,484	12/06/2001	Shuji Arakawa	VX012358 PCT	4422
21369	7590	11/29/2005	EXAMINER	
POSZ LAW GROUP, PLC 12040 SOUTH LAKES DR. SUITE 101 RESTON, VA 20191			PEREZ, JULIO R	
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			2681	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/936,484	Applicant(s) ARAKAWA ET AL.	
	Examiner Julio R. Perez	Art Unit 2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15,16,18-23,25-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15,16,18-23,25-28 and 30-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/03/04</u> . | 6) <input type="checkbox"/> Other: _____ |

By

Response to Arguments

1. Applicant's arguments with respect to claim 15-16, 18-28, 30, have been considered but are moot in view of the new ground(s) of rejection. Claims 31-38 are newly added.

Allowable Subject Matter

2. The indicated allowability of claims 27-28 is withdrawn in view of the newly discovered reference(s) to Adachi et al. [Pub. No. 20030093203]. Rejections based on the newly cited reference(s) follow.

DETAILED ACTION

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 15-16, 18, 20-23, 25-26, 30-38, are rejected under 35 U.S.C. 102(e) as being anticipated by Adachi et al. (hereinafter Adachi) [Pub. No. 20030093203].

Regarding claim 15, Adachi discloses a communication device of a construction machine for communicating between the construction machine and a terminal device, which comprises: a communication device, which enables communications with said terminal device when an electrical connection to a power source is ON (0029-0033, a

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power switch is provided on the construction to power up the machine, and in turn the transmitting unit on the machine), and location detecting means for detecting the location of said construction machine are provided in said construction machine (0028-0029, detection means within the construction machine provide information of the location of the working machine); and means for periodically turning ON and OFF an electrical connection between said power source and said communication device when the engine of said construction machine is stopped, is provided in said construction machine (0033-0035, 0038-0040, a switch is provided to allow power to be turned on or off and provide energy to the transmission unit of the machine, in fact providing location information to the base station); communication processing being performed when the electrical connection is turned ON (0033-0035).

Regarding claim 16, Adachi discloses a communication device of a construction machine for communicating between the construction machine and a terminal device, which comprises: a communication device, which enables communications with said terminal device when an electrical connection to a power source is ON, and travel speed computing means for computing a travel speed of said construction machine are provided in said construction machine (0028, 0034-0035, 0038-0040, 0056-0057, paragraphs 0028, 0056-0057 provide information about a mechanism capable of detecting changes on the speed and instructing the working machine of stopping while is moving, thus, speed calculating means there exists in order for the machine to be able to stop; thus, these paragraphs read on the claimed "computing a travel speed of the construction machine"); means for periodically turning ON and OFF the electrical

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connection between said power source and said communication device when the engine of said construction machine is stopped, is provided in said construction machine (0033-0035, 0038-0040, a switch is provided to allow power to be turned on or off and provide energy to the transmission unit of the machine, in fact providing location information to the base station); and communication processing being performed when the electrical connection is turned ON (0033-0035).

Regarding claim 18, Adachi discloses a communication device of a construction machine constituted such that a construction machine and a terminal device are connected by communication means enabling mutual transmission and reception, and, in accordance with an input operation performed at said terminal device of requesting construction machine information related to the construction machine, a content of a request is sent to the construction machine, and the construction machine, which receives the request content, acquires, via the construction machine, unit construction machine information corresponding to the request content and sends the acquired construction machine information to said terminal device, which comprises: detecting means for detecting a fact that an engine of said construction machine has been started being provided in said construction machine (0043-0049, the machine transmission unit is able to transmit information about the location of the machine when the engine is started or stopped), and when said detecting means detects that said engine is started within a predetermined time zone, the specified construction machine information is sent to said terminal device from said construction machine (0043-0049, the base station user may request information about the machine operation).

Regarding claim 20, Adachi discloses a communication device of a construction machine constituted such that a construction machine and a terminal device are connected by communication means enabling mutual transmission and reception, and, in accordance with an input operation performed at said terminal device of requesting construction machine information related to the construction machine, a content of a request is sent to the construction machine, and the construction machine, which receives the request content, acquires, via a construction machine, construction machine information corresponding to the request content and sends the acquired construction machine information to said terminal device, which comprises: detecting means for detecting a location of said construction machine being provided in said construction machine, and when the location detected by said detecting means moves outside a predetermined area or inside of a predetermined area, the construction machine information is sent to said terminal device from said construction machine (0009-0011, 0043, 0045, detection of the movement of the machine is detected when of leaving or entering an area).

Regarding claim 21, Adachi discloses a communication device of a construction machine constituted such that a construction machine and a terminal device are connected by communication means enabling mutual transmission and reception, and, in accordance with an input operation performed at said terminal device of requesting construction machine information related to the construction machine, a content of a request is sent to the construction machine, and the construction machine, which receives the request content, acquires, via the construction machine, unit construction

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machine information corresponding to the request content and sends the acquired construction machine information to said terminal device, which comprises: detecting means for detecting a relative location of said construction machine in relation to a set range being provided in said construction machine, and when the relative location of said construction machine in relation to the set range constitutes a specified relative location, the specified construction machine information is sent to said terminal device from said construction machine (0045-0047, 0056-0057).

Regarding claim 22, Adachi discloses a communication device of a construction machine constituted such that a construction machine and a terminal device are connected by communication means enabling mutual transmission and reception, and, in accordance with an input operation performed at said terminal device of requesting construction machine information related to the construction machine, a content of a request is sent to the construction machine, and the construction machine, which receives the request content, acquires, via a construction machine, construction machine information corresponding to the request content and sends the acquired construction machine information to said terminal device, which comprises: detecting means for detecting a drop in voltage of a power source mounted to said construction machine is provided in said construction machine, and when the voltage of said power source detected by said detecting means drops below a specified value, the construction machine information is sent to said terminal device from said construction machine (0028-0029, the sensor reports faults such as voltage abnormalities, i.e., drop in voltage).

Regarding claim 23, Adachi discloses a communication device of a construction machine constituted such that a construction machine and a terminal device are connected by communication means enabling mutual transmission and reception, and, in accordance with an input operation performed at said terminal device of requesting construction machine information related to the construction machine, a content of a request is sent to the construction machine, and the construction machine, which receives the request content, acquires, via a construction machine, construction machine information corresponding to the request content and sends the acquired construction machine information to said terminal device, which comprises: detecting means for detecting a location of said construction machine is provided in said construction machine, and the location information of said construction machine is sent to said terminal device from said construction machine when a content of construction machine-related data to be sent this time differs from a content of construction machine-related data sent at a previous time (0043-0047, 0056-0057, changes of the position of the machine are reported, thus relating the position as compared to a position reported at an earlier time).

Regarding claim 25, Adachi discloses a communication device of a construction machine for communicating between a plurality of construction machines and a terminal device, which comprises: one or more business offices at/from which said plurality of construction machines are stored/dispatched, and one or more work sites at which said plurality of construction machines are operated, are established (0053-0056, working areas are assigned to the hydraulic excavator); location detecting means for detecting a

location of said construction machine is provided in each construction machine (0005-0006, 0009-0010); based on the detection result of said location detecting means and location data for said business office and work site, when said construction machine enters said business office or work site, data stating that this construction machine has entered this business office or work site is sent to said terminal device from this construction machine (0053-0056, indication of going into a working site is included into the location means), and when said construction machine exits from said business office or work site, data stating that this construction machine has exited this business office or work site is sent to said terminal device from this construction machine (0053-0056); and, based on said sent data, data on the entry/exit of said plurality of construction machines to/from said business office or work site is managed by said terminal device (0049,0053-0056).

Regarding claim 26, Adachi discloses, wherein, when said construction machine exits from said business office or work site, location data is sent to said terminal device from said construction machine each time said construction machine moves a predetermined distance, and, based on said sent location data, data on a movement history of said construction machine is managed by said terminal device.

Regarding claim 30, Adachi discloses a communication device of a construction machine for communicating between a plurality of construction machines and a terminal device, which comprises: a communication device enabling communications with said terminal device when an electrical connection to a power source is turned ON is provided in said plurality of construction machines (0029-0033, a power switch is

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provided on the construction to power up the machine, and in turn the transmitting unit on the machine), means for periodically turning ON and OFF at a predetermined period the electrical connection between said power source and said communication device when an engine of its own construction machine is stopped, is provided in said plurality of construction machines (0033-0035, 0038-0040, a switch is provided to allow power to be turned on or off and provide energy to the transmission unit of the machine, in fact providing location information to the base station), and each of said plurality of construction machines changes said period in accordance with change data sent to said construction machine from said terminal device (0043-0047, 0056-0057, changes of the position of the machine are reported, thus relating the position as compared to a position reported at an earlier time).

Regarding claim 31, Adachi discloses the communication device at a construction machine according to Claim 15, wherein a period of time during which said means for periodically turning ON and OFF is turned ON is a minimum time necessary for performing a communication processing (0033-0035, 0038-0040).

Regarding claim 32, Adachi discloses the communication device at a construction machine according to Claim 15, wherein a time in which said means for periodically turning ON and OFF is turned OFF becomes shorter as the location of said construction machine detected by said location means strays from a specific area or approaches a specific area (0033-0035, 0038-0040).

Regarding claim 33, Adachi discloses the communication device at a construction machine, wherein a period for said turning ON and OFF is set arbitrarily (0029-0033, a power switch is provided on the construction to power up the machine).

Regarding claim 34, Adachi discloses the communication device at a construction machine according to Claim 16, wherein a period of time during which said means for periodically turning ON and OFF is turned ON is a minimum time necessary for performing a communication processing (0033-0035, 0038-0040).

Regarding claim 35, Adachi discloses the communication device of a construction machine according to Claim 16, further comprising location detecting means, wherein a time in which said means for periodically turning ON and OFF is turned OFF becomes shorter as a travel speed detected by the location detecting means becomes faster (0033-0035, 0038-0040).

Regarding claim 36, Adachi discloses the communication device at a construction machine according to Claim 16, wherein a period for said turning ON and OFF is set arbitrarily (0033-0035, 0038-0040).

Regarding claim 37, Adachi discloses a communication device of a construction machine for communicating between the construction machine and a terminal device, wherein a communication device, which enables communications with said terminal device when an electrical connection to a power source is ON (0029-0033), location detecting means for detecting the location of said construction machine, and state detecting means for detecting a state of said construction machine are provided in said construction machine (0028-0029, detection means within the construction machine

provide information of the location of the working machine); and means for periodically turning ON and OFF an electrical connection between said power source and said communication device when the engine of said construction machine is stopped, is provided in said construction machine (0033-0035, 0038-0040, a switch is provided to allow power to be turned on or off and provide energy to the transmission unit of the machine, in fact providing location information to the base station), and communication processing or detecting the state of the construction machine being performed when the electrical connection is turned ON (0033-0035).

Regarding claim 38, Adachi discloses a communication device of a construction machine constituted such that a construction machine and a terminal device are connected by communication means enabling mutual transmission and reception, and, in accordance with an input operation performed at said terminal device requesting construction machine information related to the construction machine, a content of a request is sent to the construction machine, and the construction machine, which receives the request content, acquires, via the construction machine, construction machine information corresponding to the request content and sends the acquired construction machine information to said terminal device, wherein: detecting means for detecting a drop in voltage of a power source mounted to said construction machine is provided in said construction machine (0028-0029, the sensor reports faults such as voltage abnormalities, i.e., drop in voltage); and means for periodically turning ON and OFF an electrical connection between said power source and said communication device when the engine of said construction machine is stopped, is provided in said

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construction machine , and when the voltage of said power source detected by said detecting means drops below a specified value, a time in which said means for periodically turning ON and OFF is turned OFF becomes longer (0028-0029).

5. Claims 19, 27, 28, are rejected under 35 U.S.C. 102(e) as being anticipated by Kinugawa [Pub. No. 20020038172].

Regarding claim 19, Kinugawa discloses a communication device of a unit construction machine constituted such that a construction machine and a terminal device are connected by communication means enabling mutual transmission and reception, and, in accordance with an input operation performed at said terminal device of requesting construction machine information related to the construction machine, a content of a request is sent to the construction machine, and the construction machine, which receives the request content, acquires, via the construction machine, unit construction machine information corresponding to the request content and sends the acquired construction machine information to said terminal device, which comprises: totaling means for totaling engine operating hours of said mobile unit being provided in said construction machine, and when a cumulative value of said engine operating hours totaled by said totaling means either reaches a specified value, or increases by a specified quantity, the specified construction machine information is sent to said terminal device from said construction machine (0034-0035, the total of time of the machine functioning is collected and thus transmitted).

Regarding claim 27, Kinugawa discloses a communication device of a mobile unit for communicating between a terminal device and a plurality of operational mobile

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units for operating at one or more operating areas, which comprises: a transportation mobile unit for transporting said plurality of operational mobile units is provided (0041-0042; Fig. 2, ref. 33, transportation means is provided to carry the working machine); one or more storage and dispatch areas, at/from which said plurality of operational mobile units are stored/dispatched, are established, and, in addition, one or more operating areas, where said plurality of operational mobile units are operated, are established (0010, 0041-0042, rental offices and working sites exist in different areas); location detecting means for detecting locations of said plurality of operational mobile units is provided in each of said plurality of operational mobile units (0010, 0041-0042, 0044-0052); based on the detection results of said location detecting means and location data of said one or more operating areas, data as to whether or not said operational mobile unit is at said operating area is sent to said terminal device from this operational mobile unit (0009-0011, 0043-0045); based on the detection results of said location detecting means and location data of said one or more storage and dispatch areas, when said operational mobile unit enters said storage and dispatch area, data to the effect that this operational mobile unit has entered this storage and dispatch area is sent to said terminal device from this operational mobile unit (0009-0011, 0043-0045); when said operational mobile unit exits from said storage and dispatch area, data to the effect that this operational mobile unit exited from this storage and dispatch area is sent to said terminal device from this operational mobile unit (0009-0011, 0043-0045); based on said sent data, data as to whether said plurality of operational mobile units are either being stored at or have been dispatched from said one or more storage and dispatch

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areas, and data as to whether or not said plurality of operational mobile units are at said one or more operating areas are managed by said terminal device (0009-0011, 0043-0045); and based on said managed data, said terminal device issues instructions to said transportation mobile unit to transport said operational mobile unit from said operating area to said storage and dispatch area, or to transport said operational mobile unit from said storage and dispatch area to said operating area (0009-0011, 0043-0045).

Regarding claim 28, Kinugawa discloses a communication device of a mobile unit for communicating between a terminal device and a plurality of operational mobile units for operating within one or more operating areas, which comprises: a transportation mobile unit for transporting said plurality of operational mobile units is provided (0041-0042; Fig. 2, ref. 33, transportation means is provided to carry the working machine); one or more storage and dispatch areas, at/from which said plurality of operational mobile units are stored/dispatched, are established, and, in addition, one or more operating areas, where said plurality of operational mobile units are operated, are established (0010, 0041-0042, rental offices and working sites exist in different areas); location detecting means for detecting locations of said plurality of operational mobile units is provided in each of said plurality of operational mobile units (0010, 0041-0042, 0044-0052); based on the detection results of said location detecting means, location data of said one or more storage and dispatch areas, and location data of said one or more operating areas, when said operational mobile unit enters either said storage and dispatch area, or said operating area, data to the effect that this operational

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mobile unit entered this area is sent to said terminal device from this operational mobile unit, and when said operational mobile unit exits from either said storage and dispatch area, or said operating area, data to the effect that this operational mobile unit has exited from this area is sent to said terminal device from this operational mobile unit (0009-0011, 0043-0045); based on said sent data, data as to whether said plurality of operational mobile units are either being stored at or have been dispatched from said one or plurality of storage and dispatch areas, and data as to whether or not said plurality of operational mobile units are at said either one or plurality of operating areas are managed by said terminal device (0009-0011, 0043-0045); and based on said managed data, said terminal device issues instructions to said transportation mobile unit to either transport said operational mobile unit from said operating area to said storage and dispatch area, or to transport said operational mobile unit from said storage and dispatch area to said operating area (0009-0011, 0043-0045).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio R. Perez whose telephone number is (571) 272-7846. The examiner can normally be reached on 7:00 - 4:00 PM.

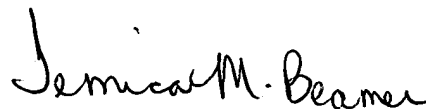
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272- 4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



11/21/05



JENICA BEAMER
PRIMARY EXAMINER

11/22/05